

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND**

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FUNDAMENTAL ADMIN. SERVS., LLC, *

Plaintiff *

v. * **CIVIL NO. JKB-13-1708**

KRISTI ANDERSON, *

Defendant *

* * * * * * * * * * * *

MEMORANDUM AND ORDER

Pending before the Court are Plaintiff's motion to disqualify counsel (ECF No. 68) and a motion to withdraw as counsel, filed by Leitess Friedberg PC (ECF No. 101). Granting the motion to withdraw will render moot the motion to disqualify, and the Court will so rule, but with caveats.

The Court notes that the motion to withdraw has only been filed by Leitess Friedberg PC. However, the original notice of appearance for Defendant was filed by "Steven N. Leitess and Leitess Friedberg PC as counsel for the Defendant." (ECF No. 6.) It is clear that withdrawal of the firm alone will not counteract the conflict of interest posed by Mr. Leitess's presence in the case. Thus, the Court construes the motion as requesting withdrawal of both him and his firm from the case.

While the Court will grant the termination of appearances by Mr. Leitess and Leitess Friedberg PC, their request that the firm continue to receive CM/ECF notifications of electronic filings is denied. Mr. Leitess and his law firm no longer have a role in the case, and nonparticipants in a matter are not afforded CM/ECF access, plain and simple.

A complicating factor in this situation is the fact that Defendant Kristi Anderson is now working as an attorney at the Leitess Friedberg PC firm, so she presumably continues to have access to Plaintiff's documents that are included in the files at Leitess Friedberg PC relating to the firm's prior representation of Plaintiff. There may also be within the possession of Leitess Friedberg PC and/or Mr. Leitess documents that pertain to the firm's former representation of Plaintiff but that may not be Plaintiff's original documents (*i.e.*, work product).

The Court notes that both Defendant and her Eccleston and Wolf, P.C., counsel have filed a certificate of compliance with the Court's May 1, 2014, order and supporting affidavits. (ECF No. 103.) Thus, they have represented to the Court that they have produced to Plaintiff all of Plaintiff's documents in their possession, except for certain documents identified on Defendant's privilege log. They have also represented that they have divested themselves of all copies of Plaintiff's documents (other than those associated with the privilege log). However, Mr. Leitess and Leitess Friedberg PC have not filed a similar certificate of compliance. They must. And their certificate must address *all documents* in their possession or to which they have access and *that pertain* to their former representation of Plaintiff, not simply documents that are owned by Plaintiff. As between the former client and the attorney, the greater protection belongs to the former client, in this case, Plaintiff.

Thus, the Court will condition its ruling permitting withdrawal upon the prompt filing by Mr. Leitess and Leitess Friedberg PC of their certificate of compliance, which should be supported by affidavits and which should address all file materials in their possession or to which they have access where such materials pertain to their prior representation of Plaintiff. Additionally, the Court assumes that Mr. Leitess and his firm are cognizant of their continuing ethical obligations to Plaintiff, including their maintaining the confidential and/or privileged

nature of information to which Mr. Leitess and his firm became privy by virtue of his prior representation of Plaintiff. Moreover, Mr. Leitess and Leitess Friedberg PC remain subject to the full force and effect of all orders entered by the Court in this case prior to their termination as Defendant's counsel.

Accordingly, it is hereby ORDERED:

1. Construed as a motion to withdraw the appearances of Steven N. Leitess, Esq., and Leitess Friedberg PC, the motion (ECF No. 101) is GRANTED.
2. Mr. Leitess and Leitess Friedberg PC shall file within 10 days of this order their certificate of compliance, with supporting affidavits, with the Court's May 1, 2014, order; such certificate shall address the Court's concerns in both the May 1 order and the instant memorandum and order.
3. Mr. Leitess and Leitess Friedberg PC are TERMINATED as counsel. They shall not receive notices of electronic filings in the case.
4. Mr. Leitess and Leitess Friedberg PC remain obligated to keep confidential Plaintiff's confidential and/or privileged information.
5. Mr. Leitess and Leitess Friedberg PC remain subject to all orders of the Court entered in the case prior to their withdrawal.
6. Plaintiff's motion to disqualify counsel (ECF No. 68) is MOOT.

DATED this 11th day of June, 2014.

BY THE COURT:

/s/
James K. Bredar
United States District Judge